



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 31 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shelly Maciejewski
Plant Manager
Johnson Controls, Inc.
Advanced Power Solutions
70 West 48th Street
Holland, Michigan 49423

Re: Finding of Violation under 42 U.S.C. § 7413(a)(3)

Dear Ms. Maciejewski:

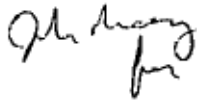
The United States Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Johnson Controls, Inc. for violations of the Clean Air Act (the Act) identified at the facility located at 70 West 48th Street, Holland, Michigan 49423 (Facility). The FOV is issued in accordance with Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3).

As explained in the FOV, the EPA finds that you have violated the Act, and the Act's implementing regulations at the Facility. We have several enforcement options under Section 113 of the Act, 42 U.S.C. § 7413. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil action.

We are offering you the opportunity to confer with us about the violations alleged in the FOV. This conference will provide you an opportunity to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for the Facility's technical and management personnel to take part in these discussions. You may have an attorney represent you at this conference.

The EPA contact in this matter is Dakota Prentice. You may call him at 312.886.6761 or email him at prentice.dakota@epa.gov if you wish to request a conference. A conference should be requested within 10 days following receipt of this notice and held within 30 days following receipt of this notice.

Sincerely,

A handwritten signature in black ink, appearing to read "George T. Czerniak".

George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Heidi Hollenbach
District Coordinator
Air Quality Division
Michigan Department of Environmental Quality

Tom Hess
Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Johnson Controls, Inc.
Holland, Michigan**

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)
) Proceeding Pursuant to the Clean Air Act,
) 42 U.S.C. §§ 7401-7671q
)
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EPA-5-13-MI-09

FINDING OF VIOLATION

The United States Environmental Protection Agency is issuing this Finding of Violation (FOV) to Johnson Controls, Inc. (Johnson Controls) to notify you that we have found violations of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (the Act), at the facility located at 70 West 48th Street, Holland, Michigan 49423 (facility).

This FOV is issued in accordance with Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), which authorizes the Administrator to take certain enforcement actions after notifying a person that it is in violation of the Act. The authority to issue this FOV has been delegated by the Administrator to the Regional Administrator and re-delegated to the Director of the Air and Radiation Division for Region 5 of the EPA.

Relevant Statutory and Regulatory Background

Title V Requirements

1. Title V of the Act, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution.
2. In accordance with Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the EPA promulgated regulations implementing Title V of the Act. *See* 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.
3. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.
4. The EPA approved Michigan's Title V program on December 4, 2001, with an effective date of November 30, 2001. *See* 66 Fed. Reg. 62949 (December 4, 2001). In Michigan, Title V program permits are known as Renewable Operating Permits.

5. 40 C.F.R. § 70.2 defines a “major source” as, among other things, a stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation. *See also* 42 U.S.C. § 7661(2)(B).
6. 40 C.F.R. § 70.2 defines “potential to emit” (PTE) as, the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. The definition states that, “any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator.”
7. 40 C.F.R. § 70.2 defines “regulated air pollutant” to include, among other things, volatile organic compounds (VOCs).
8. 40 C.F.R. § 70.1(b) provides that “all sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.”
9. 40 C.F.R. § 70.5(a) provides that “For each part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this section.”

Relevant Factual Background

10. Johnson Controls is the owner and operator of the facility located at 70 West 48th Street in Holland, Michigan.
11. Johnson Controls does not operate the facility under a federally enforceable air emissions permit, nor has it applied for or been issued a Title V permit for the facility.
12. On October 30, 2012, the EPA conducted an inspection at the facility.
13. Johnson Controls provided supplemental information regarding the facility to EPA in a letter, dated February 28, 2013.
14. Johnson Controls stated the solvent N-methylpyrrolone (NMP) is used in lithium-ion battery production and that NMP is a VOC.
15. Based on the stated annual consumption of NMP in 2012, the lithium-ion battery production in 2012, and the current stated lithium-ion battery production capacity of the facility, the facility’s PTE for VOCs exceeds 100 tons per year.

Finding of Violation

16. The facility is a “major source” subject to Title V of the Act and is subject to the above-referenced requirements of the Title V program.
17. Johnson Controls’ failure to submit a timely Title V permit application to the State of Michigan constitutes a violation of Section 503 of the Act and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b).

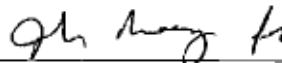
18. Johnson Controls' operation without a Title V permit issued by the State of Michigan constitutes a continuous violation of Section 502 of the Act and of 40 C.F.R. §§ 70.1(b) and 70.7(b).

Environmental Impact of Violations

19. VOCs are major precursors in the formation of atmospheric and ground-level ozone, a photochemical oxidant associated with a number of detrimental health effects, including birth defects and cancer, and environmental and ecological effects. In the presence of sunlight, and influenced by a variety of meteorological conditions, VOCs react with oxygen in the air to produce ozone.
20. Ozone is one of six listed criteria pollutants targeted for control under the Act by the establishment of a National Ambient Air Quality Standard. Its human health effects are largely associated with decreased respiratory function, even among healthy individuals. Accompanying symptoms from exposure may include sore throat, tightness or pain on breathing, coughing, and headache. Those with asthma or other underlying respiratory ailments may be at higher risk for adverse effects from ozone exposure. Aside from its human health impact, ozone can prove harmful to crops and vegetation and can cause materials such as rubber to prematurely degrade. As a component in "smog," ozone contributes to decreased visibility in polluted areas.

5/31/13

Date



George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-13-MI-09, by Certified Mail, Return Receipt Requested, to:

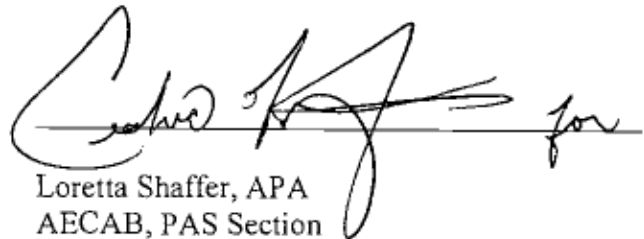
Shelly Maciejewski, Plant Manager
Johnson Controls, Inc.
Advanced Power Solutions
70 West 48th Street
Holland, Michigan 49423

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Heidi Hollenbach, District Coordinator
Air Quality Division
Michigan Department of Environmental Quality
350 Ottawa Avenue, NW, Unit 10
Grand Rapids, MI 49503-2341

Tom Hess, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality
525 West Allegan Street
P.O. Box 30473
Lansing, Michigan 48909-7973

On the 3 day of JUNE 2013.


Loretta Shaffer, APA
AECAB, PAS Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 2472